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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 DANIEL G. HUFFMAN,

12 Plaintiff,

13 vs.

14 DANIEL PARMO, et al.,

15 Defendant.

16 CASE NO. 11cv2829-LAB (DHB)

17 **ORDER ADOPTING REPORT**
18 **AND RECOMMENDATION; AND**

19 **ORDER GRANTING IN PART AND**
20 **DENYING IN PART MOTION TO**
21 **DISMISS**

22 **[DOCKET NUMBER 14.]**

23 On January 8, 2013, Magistrate Judge David Bartick issued his report and
24 recommendation ("R&R"), recommending dismissal of the first amended complaint ("FAC")
25 in part. Neither party filed objections to the R&R within the time permitted.

26 A district court has jurisdiction to review a Magistrate Judge's report and
27 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must
28 determine de novo any part of the magistrate judge's disposition that has been properly
objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part, the
findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The
Court reviews de novo those portions of the R&R to which specific written objection is made.
United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). "The statute
makes it clear that the district judge must review the magistrate judge's findings and
recommendations de novo *if objection is made*, but not otherwise." *Id.* When no objections

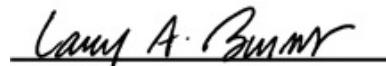
1 are filed, the Court need not review de novo the Report and Recommendation. *Wang v.*
2 *Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005).

3 The Court therefore **ADOPTS** the unobjected-to R&R. Plaintiff Daniel Huffman's
4 § 1983 claims based on inadequate medical treatment and inhumane conditions of
5 confinement; his claims under California's Unruh Civil Rights Act, and his claims under the
6 Americans with Disabilities Act are **DISMISSED**. To the extent Defendant Daniel Parmo's
7 motion to dismiss sought dismissal of Huffman's § 1983 claims based on failure to protect
8 and excessive force theories, the motion is **DENIED**.

9 Because most claims in the FAC have been dismissed, the FAC itself is **DISMISSED**.
10 Huffman, who is represented by counsel, shall file a second amended complaint ("SAC")
11 including only the undismissed claims. He must do so no later than August 1, 2013.

12 **IT IS SO ORDERED.**

13 DATED: July 19, 2013

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15 HONORABLE LARRY ALAN BURNS
16 United States District Judge
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